

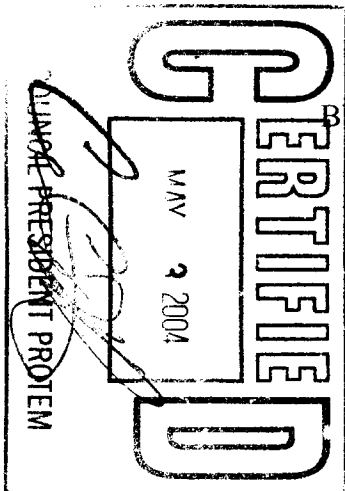
Entered - 02/17/04 - sb  
CL04L0080 - DIANNE C. MITCHELL

CLAIM OF: **THEODORE J. DAVIES**  
2960 Habersham Way  
Atlanta, Georgia 30305

**04- R -0687**

For damages alleged to have been sustained as a result of property damage due to a sewer back up between December 31, 2003 and January 12, 2004 at 2960 Habersham Way.

THIS ADVERSED REPORT IS APPROVED



BY:

**JERRY L. DELOACH**  
DEPUTY CITY ATTORNEY

## ADVERSE REPORT

PUBLIC SAFETY &

LEGAL ADMINISTRATION COMMITTEE

DATE: 4/22/04

VIC CHAIR: CC

H. L. Smith

Ray Norwood

Carla Smith

Cela Henderson

**ADVERSED**

MAY 03 2004



**CITY OF ATLANTA  
OFFICE OF MUNICIPAL CLERK**

**RHONDA DAUPHIN JOHNSON, CMC  
MUNICIPAL CLERK**

May 10, 2004

55 TRINITY AVENUE, S.W.  
SECOND FLOOR, EAST  
SUITE 2700  
ATLANTA, GEORGIA 30303  
(404) 330-6033  
FAX (404) 658-6273

Theodore J. Davies  
2960 Habersham Way  
Atlanta, GA 30305

**04-R-0687**

Dear Mr. Davies:

I sincerely regret that you have been adversely affected by the circumstances raised in your claim for damages against the City of Atlanta. Your time and patience in this matter has been greatly appreciated.

However, I must notify you that the Atlanta City Council Adopted an Adverse Report on your claim at its regular meeting on December 01, 2004. In consultation with the City's Law Department, who conducted an investigation of the situation, the Council has determined that the City cannot accept responsibility for this matter and therefore cannot pay this claim.

If you desire any further information, please contact the **City Attorney's Office/Claims Division** at (404) 330-6400.

Yours very truly,

Rhonda Dauphin Johnson, CMC  
Municipal Clerk

**cc: Claims Division/Law Department**

## DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 04L0080

Date: April 15, 2004

Claimant /Victim THEODORE J. DAVIES

BY:(Atty) (Ins. Co.) \_\_\_\_\_

Address: 2960 Habersham Way, Atlanta, Georgia 30305

Subrogation: \_\_\_\_\_ Claim for Property damage \$ 20,000.00 Bodily Injury \$ \_\_\_\_\_

Date of Notice: 02/13/04 Method: Written, proper X Improper \_\_\_\_\_

Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) X

Date of Occurrence 12/31/03-01/12/04 Place: 2960 Habersham Way

Department Watershed Management Division: \_\_\_\_\_

Employee involved \_\_\_\_\_ Disciplinary Action: \_\_\_\_\_

NATURE OF CLAIM: The claimant alleges his property was damage due to a sewer back up on the above dates. The investigation determined that the back ups were caused by the failure of the City's contractor, Insituform, to cut out the connection for the claimant's sewer line after Insituform re-lined the sanitary sewer. The claim was forwarded to Insituform for handling and they have settled the claim.

### INVESTIGATION:

Statements: City employee \_\_\_\_\_ Claimant \_\_\_\_\_ Others \_\_\_\_\_ Written \_\_\_\_\_ Oral \_\_\_\_\_

Pictures \_\_\_\_\_ Diagrams \_\_\_\_\_ Reports: Police X Dept Report \_\_\_\_\_ Other \_\_\_\_\_

Traffic citations issued: City Driver \_\_\_\_\_ Claimant Driver \_\_\_\_\_

Citation disposition: City Driver \_\_\_\_\_ Claimant Driver \_\_\_\_\_

### BASIS OF RECOMMENDATION:

Function: Governmental X Ministerial \_\_\_\_\_

Improper Notice \_\_\_\_\_ More than Six Months \_\_\_\_\_ Other \_\_\_\_\_ Damages reasonable \_\_\_\_\_

City not involved X Offer rejected \_\_\_\_\_ Compromise settlement \_\_\_\_\_

Repair/replacement by Ins. Co. \_\_\_\_\_ Repair/replacement by City Forces \_\_\_\_\_

Claimant Negligent \_\_\_\_\_ City Negligent \_\_\_\_\_ Joint \_\_\_\_\_ Claim Abandoned \_\_\_\_\_

Respectfully submitted,

  
INVESTIGATOR - DIANNE C. MITCHELL

### RECOMMENDATION:

Pay \$ \_\_\_\_\_ Adverse X Account charged: 1A01 \_\_\_\_\_ 2J01 \_\_\_\_\_ 2H01 \_\_\_\_\_ 2P01 \_\_\_\_\_

Claims Manager:  Concur/date 04/15/04

Committee Action: \_\_\_\_\_ Council Action \_\_\_\_\_

Post Mark Date \_\_\_\_\_

By \_\_\_\_\_

COUNCIL OF THE CITY OF ATLANTA  
MUNICIPAL CLERK  
City Hall  
55 Trinity Avenue, S.W.  
Atlanta, Georgia 30335

RE: CLAIM FOR DAMAGES

Today's Date: 1/25/04

ENTERED - 2-17-04 - SB  
04L0080 - DIANNE MITCHELL

Dear Municipal Clerk:

This is to notify the City of Atlanta that I have suffered damages in the amount sum of \$ ~ 20,000 property and/or \$ \_\_\_\_\_ bodily injury for which I contend the City is liable.

1. Date of incident: 12/31/03 - 1/12/04 2. Time of Incident: All week 3. Police called: \_\_\_\_\_ ☒ Yes ☐ No  
(month/day/year).

4. Location of incident (including street address): 2960 Habersham Way Atlanta, GA 30305

5. Name of your insurance company: Chubb Policy No. \_\_\_\_\_

6. State what and how incident occurred: Plumbing back-up requiring extensive time and evacuation in order for city to finally fix. My sewer connection was blocked when city had sewer pipe re-lined and mistakenly did not have me tapped back in.

7. ALL ESTIMATES AND DAMAGES ARE SUBJECT TO INSPECTION. THE MAKING OF FALSE CLAIMS WILL RESULT IN YOUR CLAIM BEING DENIED AND MAY RESULT IN CRIMINAL PROSECUTION!

8. The registered owner must make the claim for vehicle damages, complete the following and attach two (2) estimates of repair and proof of ownership of your vehicle (copy of the current tag receipt or title).

Your vehicle: \_\_\_\_\_  
(Make) (Year) (Tag Number) (Driver's Name)

City vehicle: \_\_\_\_\_  
(Make) (City Driver's Name) (Department/Bureau)

9. Witness: \_\_\_\_\_  
(Name) (Address) (Telephone Number)

10. The acknowledgement of this claim in no way waives the sovereign immunity of the City of Atlanta, as granted by State law, nor is it an admission of liability on behalf of the City of Atlanta and / or its employee(s).

11. This claim should be mailed immediately to the address shown above.

I HEREBY SWEAR OR AFFIRM THAT THE ABOVE INFORMATION IS TRUE AND CORRECT.

Therese J. Davis  
Signature of Claimant

Therese J. Davis  
(Print Claimant's Name)

2960 Habersham way  
(Address)

Atlanta, GA 30305  
(City, State and Zip Code)

404 926-3602  
(Work Number)

404 228-2885  
(Home Number)

04-R-0687

Theodore J. Davies  
2960 Habersham Way, NW  
Atlanta, GA 30305

January 25, 2004

Council of the City of Atlanta  
Municipal Clerk  
City Hall  
55 Trinity Avenue, S.W.  
Atlanta, Georgia 30335

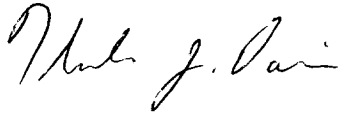
Dear Municipal Clerk:

I am writing this letter to accompany a Claim for Damages form for my personal residence located at the above address in the City of Atlanta. This claim is the result of a faulty city sewer connection on my property, which in turn led to sewage back up, in my home and subsequent repairs requiring extensive excavation of my existing driveway and backyard.

The timeframe for the occurrence of the plumbing claim is from December 31, 2003 until January 12, 2004. I am still in the process of getting estimates to fix the concrete driveway and resulting landscape repair.

I have enclosed the plumbing bills associated with the claim as presented to me by B&R Plumbing and would like some guidance as to the timeframe required to settle this claim. Thank you in advance for your prompt attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Theodore J. Davies", written in a cursive style.

Theodore J. Davies